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1745

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit

: 1745

Customer No.: 35811

Confirmation No.: 2860

Docket No.: 1540-00

Examiner

: Jonathan Crepeau

Serial No.

: 09/774,827

Filed

: January 29, 2001

Inventors

: Manfred Kilb: Eduard Pytlik

: Dejan Llic

: German Schulz

: Thomas Koke

Title

: GASTIGHT-SEALED ALKALINE

: STORAGE BATTERY IN THE

: FORM OF A BUTTON CELL

Dated: March 30, 2004

TRANSMITTAL LETTER

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

Enclosed herewith is a copy of a Chinese Official Action dated February 13, 2004 along with the English translation. We note that the publications cited in the Official Action were previously submitted to the PTO in a Supplemental Information Disclosure Statement dated April 18, 2003.

Respectfully submitted,

T. Daniel Christenbury Reg. No. 31,750

TDC:ks (215) 656-3381



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit

: 1745

Customer No.: 35811

Examiner

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Docket No.: 1540-00

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Dated: March 30, 2004

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Certificate of Mailing Under 37 CFR 1.8

For

Postcard Transmittal Letter Copy of Chinese Official Action dated February 13, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date appearing below.

English Translation of Chinese Official Action

Name of Applicant, Assignee, Applicant's Attorney or Registered Representative:

> Piper Rudnick LLP Customer No. 035811

By:	19	
Date:	30 MAR 2004	



中华人民共和国国家知识产权局

发文日期:	:
即以骗码:	In E
香港湾仔港湾道 23 号鹰君中心 22 字楼	沙侧豐
中国专利代理(香港)有限公司	
苏娟	A TOTAL
IEI	
中请号: 01104749.6	
7 11 7. 01104747.0	4 H/4
中 请 人: 瓦尔达微电池有限责任公司	N
发明名称: 钮扣电池形式的气密封碱性蓄电池	.1
第一次审查意见通知书 1976)	42249
1. 🔯 依申请人提出的实审请求,根据专利法第 35 条第 1 款的规定,审查员对上述发明专利申请进行	
□ 根据专利法第 35 条第 2 款的规定,国家知识产权局决定自行对上述发明专利申请进行审查。	,,,,,,
2. 🛛 申请人要求以其在:	
DE 专利局的申请日 2000 年 2 月 23 日 为优先权日。	
- 专利局的申请日 为优先权日	
专利局的申请日	
专利局的申请11 为优先权41	
□ 申请人已经提交了经原申请国受理机关证明的第一次提出的在先申请文件的副本。	6-11-11-2-11-1
□ 申请人尚未提交经原申请国受理机关证明的第一次提出的在先申请文件的副本。根据专利法第	30 条的规定视为未
提出优先权要求。	
3. □ 申请人于年月日和年月日提交了修改文件。	
经审查,其中:年月目提交的不符合实施细则第 51 条的规定;	
年月日提交的不符合专利法第 33 条的规定。 • N2 生态 B 标识 G 标识 G 依识 G 依	
4. ② 市查是针对原始申请文件进行的。	
[1] 审查是针对下述申请文件进行的: 说明书 申请日提交的原始申请文件的第页:	
是一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个	
年月日提交的第页:年月日提交的第页:	
权利要求 申请日提交的原始申请文件的第二	
年月日提交的第项:年月日提交的第项:	
年月日提交的第项:年月日提交的第项:	
附图 申请日提交的原始申请文件的第页:	
年月日提交的第页;年月日提交的第页;	
年月目提交的第页;年月目提交的第页;	
· · · · · · · · · · · · · · · · · · ·	
摘要附图 □申请日提交的: □年_月_日提交的。	
5. [] 本通知书是在来进行检索的情况下作出的。	
5. [_] 本期知事庭代本起行视系的相见于日记印。	
5.	



中华人民共和国国家知识产权局

编号	文件号或名称	公 开 月 期 (或抵触申请的申请目)
1	US5981108	1999. 11. 09
2	JP61216269	1986. 09. 25
3	US3455739	1969. 07. 15
.1	CB2254178	1991. 03. 19

	1,01510509	1986, 09, 25
3	US3455739	1969. 07. 15
-1	GB2254-178	1991. 03. 19
. W i	9结论性意见:	•
× 3	: 平说明书:	
	□ 申请的内容属于专利法第5条规定的不接予专利权的范围。	
	□ 说明书不符合专利法第 26 条第 3 款的规定。	
	□ 说明书不符合专利法第 33 条的规定。	
	☑ 说明书的撰写不符合实施细则第 18 条的规定。	
区头	于权利要求书:	
	☑ 权利要求1-2不具备专利法第 22 条第 2 款规定的新颖性。	
	☑ 权利要求3-7不具备专利法第 22 条第 3 款规定的创造性。	
	□ 权利要求不具备专利法第 22 条第 4 款规定的实用性。	
	□ 权利要求属于专利法第25条规定的不授予专利权的范围。	
	□ 权利要求不符合专利法第 26 条第 4 款的规定。	
	□ 权利要求不符合专利法第 31 条第 1 款的规定。	
	□ 权利要求不符合专利法第 33 条的规定。	
	□ 权利要求不符合实施细则第2条第1款关于发明的定义。	
	── 权利要求不符合实施细则第 13 条第 1 款的规定。	
	☑ 权利要求3, 5, 6, 7不符合实施细则第 20 条至第 23 条的规定。	
上述	结论性意见的具体分析见本通知书的正文部分。	
基于上	迷结论性意见,声查员认为:	
一 申	青人应按照通知书正文部分提出的要求,对申请文件进行修改:	
	者人应在意见陈述书中论述其专利申请可以被授予专利权的理由,并对通知书正义	(部分中指出的不符合规定之势
	宁修改,否则将不能授予专利权。	
]] 中请中没有可以被授予专利权的实质性内容,如果申请人没有陈述理由或者陈述	壁直不充分,其申请将被驳回。
<u>电请人</u>	<u>应注意下述事项</u> :	
1) 根	据专利法第 37 条的规定,申请人应在收到本通知书之目起的 <u>肆</u> 个月内陈述意	. 见,如果申请人无正当理由途
	不答复,其申请将被视为旅回,	
2) 申	背人对其申请的修改应符合专利法第 33 条的规定,修改文本应一式两份,其格式)	双符合审查指南的有关规定。
	青人的意见陈述书和/玻修改文本应邮寄或递交给国家知识产权局专利局受理处。	
件名	F.具备法律效力。	
4) 未经	至顶约,申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。	
本通知:	B正文部分共有2页。并附有下述附件:	
]的对比文件的复印件共 <u>4份22页。</u>	
审查_3	-部上室 审查员签章: 3 打 完成日	期:2004-01-18



中华人民共和国国家知识产权局

第一次审查意见通知书正文

- 1. 申请文本中多次出现"金属的范围"和"有效质量",根据审查员的理解, "金属的范围"在本申请中的含义是"金属区域"或"金属层","有效质量" 在申请文本的含义是"活性物质"。
- 2. 关于权利要求 1,对比文件 1 公开了一种气密封镍镉电池的多孔的金属泡沫的骨架(说明书第 2 栏 30-45 行),还公开了一种被压缩了的金属泡沫,并且在泡沫的空隙里面充满了镍金属的粉末,此部分金属泡沫中不含活性物质(权利要求 5,7),这相当于金属区域,它在对比文件中解决的技术问题也是实现正电极与电池壳的良好接触。由此可见,权利要求 1 的技术特征已经在对比文件 1 中公开,两者属于同一技术领域,采用相同的技术方案,解决的技术问题相同,预期效果相同。因此,权利要求 1 不具备专利法第二十二条第二款的新颖性。
- 3. 关于从属权利要求 2, 根据说明书,权利要求 2 的电极是指正电极。对比 文件 1 (说明书第 6 栏第 40-60 行)公开了一个金属区域的数值范围,它占据整 个电极总厚度的 1%至 5%(相当于在正电极中占 2%至 10%)。根据审查指南 3.2.4 的第 3 条,对比文件公开的数值(10%)落在权利要求 2 限定的数值范围内,因 此,权利要求 2 也不具备专利法第二十二条第二款规定的新颖性。
- 4. 关于从属权利要求 3,对比文件 2(说明书附图及其说明,权力要求 2)公开了一种电极的中心空腔,此中心空腔用来容纳用于浸渍电极所必需的电解液,同时,还公开了空腔的直径为 1-2mm,最好是 1.5mm,电极的直径为 11.6 mm (实施例 1),这相当于空腔占电极体积的 8.6%至 17.2%。根据审查指南 3.2.4 第 3 条,对比文件已公开了权利要求 3 要求的范围。因此,权利要求 3 相对于对比文件 1 和 2 的结合来说,不具备突出的实质性特点和显著的进步,不具备专利法第二十二条第三款规定的创造性。
- 5. 关于从属权利要求 4,对比文件 2(出处同上)公开了一种两个电极都具有中心空腔的结构,并且解决的技术问题仍是容纳用于浸渍电极所必需的电解液。因此,当其引用的权利要求 1 和 2 相对于对比文件 1 不具备新颖性时,权利要求 4 不具备专利法第二十二条第三款规定的创造性。
- 6. 关于从属权利要求 5, 对比文件 3 (参见说明书附图 5 及其说明, 权利要求

D

中华人民共和国国家知识产权局

1-11) 也公开了一种凹槽, 此凹槽位于电极的表面上, 其解决的技术问题是保证良好的换气和快速的气体耗用。由此可见, 权利要求 5 的附加技术特征已公开于对比文件 3, 并且将对比文件 1、2 和 3 的结合, 本领域技术人员容易得到该技术。因此, 权利要求 5 不具备突出的实质性特点和显著的进步, 不具备专利法第二十二条第三款规定的创造性。

- 7. 关于从属权利要求 6, 其公开的数值范围,对本领域技术人员来说,很容易根据常规实验获得。因此,当其所引用的权利要求 5 不具备创造性时,权利要求 6 也不具备专利法第二十二条第三款规定的创造性。
- 8. 关于从属权利要求 7,对比文件 4(说明书附图及其说明,权利要求 18-19),中也公开了一种气密封电池中的弹簧,它位于负电极和电池壳之间,解决的技术问题也是提高电极的稳定性。由此可见,权利要求 7 的附加技术特征已公开于对比文件 4,并且本领域技术人员容易将对比文件 1,2,3,4 相结合,得到该技术方案。因此,权利要求 7 不具备突出的实质性特点和显著的进步,不具备专利法第二十二条第三款规定的创造性。
- 9. 此外,本申请还存在以下缺陷:
- (1) 权利要求 3 和 6 中的用语"最好"、"最好是"和"大约"、"左右",会导致保护范围不清楚,不符合专利法实施细则第二十条第一款的规定。
- (2) 权利要求 5 和 7 本身为多项从属权利要求,又分别引用了在前的多项从属权利要求,并且多项从属权利要求 7 采用了非择一引用形式,因而不符合专利法实施细则第二十三条第二款的规定。
- (3) 说明书第一页第八段中 "由权利要求 I 所述"和"见从属权利要求所述"不符合专利法实施细则第十八条第三款的规定。
- (4). 说明书第二页的第二段中"范围 8"和第六段中"部位 8",为同一附图的同一部分,但是附图标记不一致。不符合专利法实施细则第十九条第三款的规定。

基于上述理由,该申请的全部权利要求不具备新颖性或创造性,同时说明书中也没有记载其它任何可以授予专利权的实质性内容,该申请也不具备授予专利权的前景,除非申请人能够在本通知书指定的四个月答复期内提出表明该申请具有新颖性或创造性的充分理由,否则改申请将被驳回。

CPME0042249

Patent Office of the People's Republic of China

Address: Receiving Section of the Chinese Patent Office, No. 6 Tucheng Road West, Haidian District, Beijing.Postal code: 100088

Applicant		VARTA MICROBATTERY GMBH		Seal of Examiner	Date of Issue	
Agent	China Patent Agent (H.K.) Ltd.			February 13, 2004		
Patent Application	ı No.	01104749.6	Application Date	February 22, 2001	Exam Dept.	
Title of Invention	88881	SDICHT VERS RM EINER KNO		R ALKALISCHE	ER AKKUMU	LATOR IN

First Office Action

1. ☐ Pursuant to the provision of Article 35 (1) of the Chinese Patent Law, the examiner made an examination as to substance of the captioned patent application for invention upon the request for substantive examination filed by the applicant on
☐ Pursuant to the provision of Article 35 (2) of the Chinese Patent Law, the Chinese Patent Office has decided to conduct on its own initiative an examination as to substance of the captioned patent application for invention.
 2. The applicant requests taking the filing date, Feb 23, 2000, at the Patent Office, the filing date,, at the Patent Office as the priority date of the present application. A copy of the first filed patent application certified by the receiving organ of the initial country of filing has been submitted by the applicant. A copy of the first filed patent application certified by the receiving organ of the initial country of filing has not been submitted by the applicant. Pursuant to the provision of Article 30 of the Chinese Patent Law, no priority right shall be deemed to
have been claimed. 3. The applicant filed amended application document(s) onand
Examination has confirmed that filed on cannot be accepted, filed on cannot be
as the above amendment(s) \square is/are not in conformity with the provision of Article 33 of the Chinese Patent Law.
☐ is/are not in conformity with the provision of Rule 51 of the Implementing Regulations of the Chinese Patent Law.

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	For the specific reason that the amendment(s) cann Office Action.	ot be accep	oted, see the text of
ir ir c c	the examination is conducted in the light of the original he examination is conducted in the light of the follows the original application documents submitted on the original application documents submitted on the original application documents submitted on the claim(s), page(s), output the drawing(s); Claim(s), page(s); Claim(s), page(s); Claim(s), submitted on; Claim(s), submitted on; Claim(s), submitted on	wing applice he filing date f the descripof the iim(s)	ation document(s): e: tion, Figure(s) e description,, page (s)
C ∑ I ☑	the present Office Action has been prepared without conducted. The present Office Action has been prepared with a conducted. The following reference document(s) is/are cited in the number(s) will, continue to be used throughout the e	search havir his Office Ac	ng been tion (its/their serial
No.	Number or Title of Document	Date of Publ (or filing dat application)	te of interfering
1	US5981108	(Date)	Nov 9, 1999
2	JP61216269	(Date)	Sep 25, 1986
3	US3455739	(Date)	Jul 15, 1969
4	GB2254478		Mar 19, 1991
5			
6			 ,,,,
☑ On □ ૉ □ ૉ	the description: the content of the examiner are: the description: he content of the application comes within the scorgranted as provided in Article 5 of the Patent Law. he description is not in conformity with the provision law.		
lr ☑ On	he drafting of the description is not in conformity wit mplementing Regulations. the claims:	·	
2	Claim comes within the scope where no patent right 25 of the Patent Law. Claim is not in conformity with the definition of inventi		
\square	mplementing Regulations. Claim <u>1-2</u> does not possess novelty as provided in the contract of	in Article 22(2	2) of the Patent
	Claim <u>3-7</u> does not possess inventiveness as prov	vided in Artic	le 22(3) of the

Li Claim does not possess practical applicability as provided in Afficie 22(4) of
the Patent Law.
·D·Claim is not in conformity with the provision of Article 26(4) of the Patent
Law.
□ Claim is not in conformity with the provision of Article 31(1) of the Patent Law.
☑ Claim <u>3.5,6.7</u> is not in conformity with the provisions of Rules 20-23 of the Implementing Regulations.
☐ Claim is not in conformity with the provision of Article 9 of the Patent Law.
Claim is not in conformity of the provision of Rule 12(1) of the Implementing Regulations.
For specific analyses of the above concluding comments, see the text of this Office Action.
7. In view of the above concluding comments, the examiner holds that:
 □ The applicant should amend the application document in accordance with the requirements raised in the text of this Office Action. The amended document(s) should be submitted in duplicate and should conform to the provisions of Article 33 of the Patent Law and Rule 51 of the Implementing Regulations of the Chinese Patent Law. □ The applicant should expound in his Observations the reasons why the captioned patent application is patentable and amend the places not conforming to regulations as pointed out in the text of the Office Action, otherwise it would be impossible for the patent right to be granted.
☑ The captioned patent application contains no substantive content for which the patent right may be granted, thus if the applicant has not advanced his reasons or has not done so adequately, the application will be rejected.
 8. The applicant should pay attention to the following matters: In accordance with the provision of Article 37 of the Patent Law, the applicant should submit his/its Observations within four months from the date of receipt of this Office Action; if, without any justified reason, the time limit for making response is not met, the application will be deemed to have been withdrawn. The amendments made by the applicant to his application should conform to the provision of Article 33 of the Patent Law, the amended text should be in
duplicate and the format should conform to the relevant provisions of the Guidelines for Examination.
(3) The applicant's Observations or amended text should be mailed or presented to the Receiving Section of the Chinese Patent Office. Document no mailed or presented to the Acceptance Section have no legal force.
(4) Without making an appointment, the applicant and/or agent may not come to the Chinese Patent Office to hold an interview with the examiner.
9. This Office Action consists of the text portion totalling <u>2</u> page(s) and of the following annex(es):
\square _4_ duplicate copies of the reference document(s) cited totalling _22_ page(s).
buge(s).